

Statement by Carl Stenberg
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Good afternoon. I am Carl Stenberg, and I appreciate the opportunity to speak on behalf of proposals to reconstitute the concept of the U.S. Advisory Commission on Intergovernmental Relations, and in particular the “Restore the Partnership Act.” I offer a “pracademic” perspective on this subject. Prior to my university affiliations I served for 16 years as an ACIR staff member – as a research analyst and then assistant director for policy implementation – followed by six years as executive director of the Council of State Governments.

I also have been a Fellow with the National Academy of Public Administration since 1984, the year Congress chartered the organization. NAPA offers trusted advice to government leaders on critical management challenges. The Academy’s Intergovernmental Systems Standing Panel has worked to promote better understanding of intergovernmental issues and solutions. NAPA is honored to be among the organizations serving on the Advisory Council to the Task Force, and I understand that the Academy’s President, Teresa Gerton, has communicated with Chairman Bishop regarding recommendations for substantive areas that the Task Force might address. My remarks today are my personal views and do not represent a position of the Academy on the proposed legislation.

In my judgment the “Restore the Partnership Act” is a promising point of departure for rebuilding the federal government’s capacity to address current intergovernmental issues and emerging challenges. It would establish a successor to the former Advisory Commission on Intergovernmental Relations, which for most of its existence was regarded as the preeminent bipartisan, independent organization in the field.

Some federalism observers would likely agree that the time has come to take action to “Restore the Partnership” through a National Commission on Intergovernmental Relations, as I will point out in a moment. In view of changes in the political environment since ACIR’s demise

in 1996, others argue that the time for such a body has come and gone and are skeptical regarding its legislative prospects and impact.

Intergovernmental Relations in Transition

The intergovernmental world has changed dramatically over the past 20 years in at least four ways.

First, so-called “wicked problems” have emerged like climate change, the opioid epidemic, homelessness, infrastructure, and immigration. What is distinctive about them is that addressing these and other challenges requires not just intergovernmental, but intersectoral and interdisciplinary approaches. What has not changed is the programmatic “silo” approach that characterizes federal grant-in-aid programs, much like a picket fence metaphor. So the complexity of problem-solving—horizontally and vertically—has increased substantially.

Second, relationships between and among governments—as well as the “Big 7” state and local associations—have become more contentious. While there has always been a degree of friction between the intergovernmental partners, the dynamics of their world have become more polarized, partisan, and personal. As my colleague on the panel today John Kincaid has observed, we have been in a period of “coercive” federalism.

Third, the number of policy “think tanks” in Washington DC has exploded. Many of these organizations have a philosophical or political point of view, and are less interested in neutral, balanced research and analysis than in finding political support for their positions on issues. The intergovernmental policy field has become more crowded.

Fourth, the role and reputation of governments at all levels have come under the spotlight as citizens point to the failure of these units to perform to expectations. Confidence in governments has steadily declined, and some believe that government is the problem, not the solution. There are no simple or technical answers to basic questions such as Who does what? Who pays the bill? Who is accountable?

In this environment, it is fair to ask whether an organization like the proposed National Commission on Intergovernmental Relations could have a positive impact. But it is also important to recognize that a new commission is only one step—albeit an important one—toward establishing intergovernmental common ground and finding ways to convene and

collaborate on that work. NAPA President Teresa Gerton's letter presents some recommended additional steps that the Task Force might consider.

My frame of reference for addressing this question is a book I co-edited on *Intergovernmental Relations in Transition* that was published by Routledge in March. Two of the contributors—Governor Parris Glendening and Professor John Kincaid—join me on this panel. A promising trend noted by several contributors was the “resurgence” of intergovernmental relations after more than two decades of “deinstitutionalization.” At the national level, among the examples were the establishment of the Department of Homeland Security, financial responses to the Great Recession such as the American Recovery and Reinvestment Act, and enactment of high profile domestic legislation like the No Child Left Behind Act and the Affordable Care Act. These and other domestic initiatives call for better consultation, collaboration, and coordination among the partners to enhance efficiency, effectiveness, and equity in program development and delivery. So how can this be done?

With help from Professor Kincaid, my co-editor and I framed a number of “Big Questions” in the introduction and invited the contributors to respond. One of the “Big Questions” was: “How important is the absence of institutions that monitor intergovernmental trends and developments, convene meetings, and conduct research to the health of the federal system?” Will the need to rebalance the federal government's financial and programmatic roles call for more and sustained attention to intergovernmental management?” In response, several of the contributors expressed concern about the “unraveling” of intergovernmental relations, in part due to this void, and recommended that it be filled. They expressed concern that proposed federal budget reforms, reorganizations, program eliminations, and domestic legislative initiatives have potentially significant impacts on states and localities, which are not well appreciated and often not even considered in the policy-making and legislative processes. An ACIR-type organization could further understanding of intergovernmental consequences and impacts, and improve program design. In the conclusion we summarized the contributor's views as follows: “They recognize that there is a need for such capacity...although they are skeptical that an organization similar to the former ACIR could be established in the current political environment...While the creation of a Task Force on Intergovernmental Affairs...and appointment of ‘Big 7’ representatives to an Advisory Council was encouraging news, whether

this body will be successful in filling the intergovernmental consultation void remains to be seen.”

Restore the Partnership Act

With respect to the proposed legislation, much of the bill reflects the mission, organization, and functions of the former ACIR. I have a few questions and suggestions to offer for the Task Force’s consideration.

Section 3: The four charges to the National Commission are important and distinctive purposes. With respect to (2), perhaps consideration should be given to adding “regulations.”

Section 4: The expanded membership, to include two tribal officers as well as a fourth state legislator and county official, gives majority representation on the National Commission to non-federal members with appropriate political and geographical composition balance factors in (b). Tribal representation on ACIR was advocated for several years but not implemented. These additional members together with those from state and local governments, would help ensure grassroots representation but could risk the Commission being labeled as a “state and local lobby group,” as was done in ACIR’s waning years when there was lackluster participation by the federal representatives.

Section 5: The rationale for the National Commission’s membership designating a Chairman and Vice-Chairman, instead of the President, could be reexamined. As a practical matter, the time involved with members becoming acquainted, building trust, and demonstrating meeting management skills could delay the selection process. Also, if Commission designation of the leadership remains in place, should there be provision for rotation among the different categories of membership?

Section 6: The Commission’s duties are important and wide-ranging and the amount of attention to be devoted to each is flexible. One possible missing duty, however, involves improving the management and performance of federal aid programs, which was one of the main focus areas of ACIR for several years (see *The Intergovernmental Grant System: An Assessment and Proposed Policies* series). Of course, both OMB and GAO work in this area, but with a federal not necessarily intergovernmental perspective.

Section 10: It is not clear from this language whether the National Commission may accept funds from federal agencies. This was an important source of financial support for the

ACIR from time-to-time that enabled hiring of additional staff and consultants to enrich and accelerate the pace of research projects, such as the above series.

Lessons Learned from ACIR

In closing, I would like to share some thoughts on three lessons learned from ACIR's 37-year record which might be helpful in moving forward should the "Restore the Partnership Act" be enacted.

First, the federal members of the National Commission should be committed to and value intergovernmental consultation and engagement. Professor Kincaid has asked who are the federalism "champions" in Congress and how could serving on a body such as the National Commission be valued by Representatives and Senators who likely will receive no political credit for their service? Outside of the members of this Task Force, attention should be given to identifying "champions," perhaps former state or local elected officials now serving in Congress, and what message should be delivered about the value-added by their active participation. A key factor responsible for the success of ACIR's start-up was the engagement of congressional representatives like Representative L.H. Fountain and Senator Edmund Muskie.

Second, strong support from the "Big 7" is crucial. Five of these organizations nominate representatives for appointment. It is essential that they be high quality candidates who appreciate bipartisanship and collaboration, and who can think and act outside of their respective jurisdictional and programmatic silos. Another reason for the demise of ACIR was lack of support from the "Big 7." Including these organizations on the Task Force's Advisory Council was a wise decision, and it sends an important message that they are not just another special interest group.

Third, a key factor for the success and perhaps survival of the National Commission will be the research agenda that it undertakes. The challenge is to identify research subjects that are timely and relevant, but not too close to the political fray. For the most part, ACIR was able to do this well – such as its research and policy recommendations on counter-cyclical federal fiscal assistance, which led to General Revenue Sharing; and on block grants, substate regional coordination of grant applications, and federal aid simplification and management improvements, which supported OMB Management Circulars; and on federal preemption and unfunded mandates, which strengthened the case for the Unfunded Mandate Reform Act. Also

important were information reports (without recommendations) on *Significant Features of Fiscal Federalism* and on the numbers of categorical grants, which were unavailable elsewhere and were highly valued by ACIR's stakeholders. In addition to the National Academy of Public Administration's suggestions, the advocacy agendas of the "Big 7" reveal some common policy areas such as infrastructure and workforce development. A third source is GAO reports that have identified program duplication, agency overlap, and high risk management areas that could serve as a point of departure for consideration of intergovernmental remedial actions.

All three of these factors influenced the decision to defund ACIR as part of a Congressional effort to reduce costs by eliminating small agencies. Undertaking a politically sensitive research project (even at the behest of Congress) like federal mandates reform aroused special interest group opposition. Coupled with the lack of support for continuation from the Clinton administration and the "Big 7" created a "perfect storm" for deinstitutionalization.

In closing, I want to share a quote from our book on the state of intergovernmental affairs by Donald Borut, former executive director of the National League of Cities: "The challenge for those representing state and local governments is the apparent disinterest, lack of understanding, and diminished priorities members of Congress have for intergovernmental relations and the direct and indirect consequences of their decisions on states and localities. Federalism does not appear to be a lens through which legislation is considered."

Representative Connolly's Restore the Partnership legislation is an important but not sole step for increasing intergovernmental cooperation and coordination. "Putting the 'R' back in IGR" would send a welcome symbolic and substantive message that there is an important connection between the federal government, states, local governments, and tribes.